

Department of Justice

§ 40.21

no longer be fair and effective, the Attorney General shall suspend certification. The suspension shall continue until such time as the deficiency is corrected, in which case certification shall be reinstated, or until the Attorney General determines that substantial compliance no longer exists or that the procedure is no longer fair and effective, in which case, except as provided in paragraph (b) of this section, the Attorney General shall withdraw certification pursuant to § 40.19 of this part.

(b) *Defect may be readily remedied; good faith effort.* If the Attorney General determines that a grievance procedure is no longer in substantial compliance with the minimum standards or is no longer fair and effective, but has reason to believe that the defect may be readily corrected and that good faith efforts are underway to correct it, the Attorney General may suspend certification until the grievance procedure returns to compliance with the minimum standards or is otherwise fair and effective.

(c) *Recertification after suspension pursuant to paragraph (a) of this section.* The Attorney General shall reinstate the certification of an applicant whose certification was suspended pursuant to paragraph (a) of this section upon a demonstration in writing by the applicant that the specific deficiency on which the suspension was based has been corrected or that the information that caused the Attorney General to suspend certification was erroneous.

(d) *Recertification after suspension pursuant to paragraph (b) of this section.* The Attorney General shall reinstate the certification of an applicant whose certification has been suspended pursuant to paragraph (b) of this section upon a demonstration in writing that the deficiency on which the suspension was based has been corrected.

(e) *Notification in writing of suspension or reinstatement.* The Attorney General shall notify an applicant in writing that certification has been suspended or reinstated and state the reasons for the action.

[Order No. 957-81, 46 FR 48186, Oct. 1, 1981, as amended by Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

§ 40.19 Withdrawal of certification.

(a) *Finding of non-compliance.* If the Attorney General finds that a grievance procedure is no longer in substantial compliance with the minimum standards or is no longer otherwise fair and effective, the Attorney General shall withdraw certification, unless the Attorney General concludes that suspension of certification under § 40.18(b) of this part is appropriate.

(b) *Notification in writing of withdrawal of certification.* The Attorney General shall notify an applicant in writing that certification has been withdrawn and state the reasons for the action.

(c) *Recertification after withdrawal.* An applicant whose certification has been withdrawn and who wishes to receive recertification shall submit a new application for certification.

[Order No. 957-81, 46 FR 48186, Oct. 1, 1981, as amended by Order No. 1955-95, 60 FR 13903, Mar. 15, 1995]

§ 40.20 Contemplated change in certified procedure.

A proposed change in a certified procedure must be submitted to the Attorney General thirty days in advance of its proposed effective date. The Attorney General shall review such proposed change and notify the applicant in writing before the effective date of the proposed change if such change will result in suspension or withdrawal of the certification of the grievance procedure.

§ 40.21 Notification of court.

The Attorney General shall notify in writing the Chief Judges of the U.S. Court of Appeals and of the U.S. District Court(s) within whose jurisdiction the applicant is located of the certification, suspension of certification, withdrawal of certification and recertification of the applicant's grievance procedure. The Attorney General shall also notify the court of the certification status of any grievance procedure at the request of the court or any party in an action by an adult inmate pursuant to 42 U.S.C. 1983.